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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/477,572	01/04/2000	PAUL DAVID MOONEY JR.	99-156	9431
22206	7590	05/05/2005	EXAMINER	
FELLERS SNIDER BLANKENSHIP BAILEY & TIPPENS THE KENNEDY BUILDING 321 SOUTH BOSTON SUITE 800 TULSA, OK 74103-3318			MENDEZ, MANUEL A	
			ART UNIT	PAPER NUMBER
			3763	

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/477,572	Applicant(s) MOONEY, PAUL DAVID	
	Examiner Manuel Mendez	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2005.
- 2a) ☐ This action is **FINAL**.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5-8, and 10-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5-8 and 10-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
 - 1. ☐ Certified copies of the priority documents have been received.
 - 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5-8, and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feller, Jr., et al., in view of (1) Wenstrom, Jr., (2) Hildwein, et al., (3) Wellner, et al., (4) Termanian, or (4) Bedi, et al., and in further view of Stednitz, et al. The Feller, Jr., et al., patent discloses a body including an interface and a cannula; the cannula extending into and terminating in a vessel; a body for at least partial insertion into the bodily tissue at a point of insertion; the interface being the portion of the body which remains in contact with the bodily tissue adjacent the point of insertion while the device remains inserted in the bodily tissue. The Feller, Jr., et al. patent does not disclose texture on the interface. However, the use of texture on interfaces is conventional in the art as evidenced by the teachings of (1) Wenstrom, Jr., (2) Hildwein, et al., (3) Wellner, et al., (4) Termanian, (5) Bedi, et al., or (6) Stednitz, et al. The cited patents disclose various types of textures use to secure the insertion apparatus to the surrounding tissue ensuring the stability of the apparatus during surgical procedures. Moreover, in column 4, lines 17-21, Stednitz, et al., clearly discloses the benefits of tissue growth in medical devices manufactured of porous materials such as titanium. The specification states: **"Titanium is readily acceptable by body tissue as it is**

sufficiently porous about its exterior surface to permit bone growth to extend into the surface, thereby providing a more effective stabilization system”.

Based on the above observations, for a person of ordinary skill in the art, enhancing the structure disclosed in Feller, Jr., et al., with texture to prevent migration from the point of entry would have been considered an obvious in view of the teachings of the above cited references, and specially, the teachings of Stednitz, et al.

Claims 10-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feller, Jr., et al., in view of (1) Hildebrandt, (2) Hunt et al., (3) Bedi et al., (4) Ternamian, (5) Wenstrom, Jr., (6) Ciaglia et al., (7) Ju, or (8) O'Connor et al., and in further view of Stednitz, et al.

The Feller, Jr., et al., patent discloses a stent portion, the stent portion capable or receiving a needle therethrough, the stent portion including an introducer and a cannula through which the needle extends, the introducer including a distal portion and a proximal portion, a segment of the proximal portion for contact with the bodily tissue at the point of insertion. Importantly, the Feller, Jr., et al. patent does not expressly disclose texture comprising of rounded bumps, pointed bumps, and static texture.

However, the use of texture comprising rounded bumps, pointed bumps, and static texture is conventional as demonstrated in the teachings and figures of (1) Hildebrandt, (2) Hunt et al., (3) Bedi et al., (4) Ternamian, (5) Wenstrom, Jr., (6) Ciaglia et al., (7) Ju, (8) O'Connor et al., and (9) Stednitz, et al. Accordingly, in view of the conventionality of the use of texture, it would have been obvious to modify the cannula structure of the Feller, Jr., et al., patent to include texture enhancements.

Conclusively, the use of texture comprising rounded bumps, pointed bumps, and static texture, would have been considered obvious in view of the conventionality of these enhancements. In relation to cell growth, Stednitz, et al., clearly discloses the benefits of tissue growth in medical devices manufactured of porous materials such as titanium. The specification states: "Titanium is readily acceptable by body tissue as it is sufficiently porous about its exterior surface to permit bone growth to extend into the surface, thereby providing a more effective stabilization system".


Based on the above observations, for a person of ordinary skill in the art, enhancing the structure disclosed in Feller, Jr., et al., with texture to prevent migration from the point of entry would have been considered an obvious in view of the teachings of the above cited references, and specially, the teachings of Stednitz, et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manuel Mendez whose telephone number is 703-308-2221. The examiner can normally be reached on 0730-1800 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Brian Casler can be reached on 703-308-3552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Manuel Mendez', is positioned above the printed name.

Manuel Mendez
Primary Examiner
Art Unit 3763

MM